

Appl. No. 10/527,416  
Amdt. dated August 8, 2008  
Reply to Office action of April 15, 2008

REMARKS

In view of both the amendments presented above and the following discussion, the Applicants submit that none of the claims now pending in the application is obvious under the provisions of 35 USC § 103. Thus, the Applicants believe that all of these claims are now in allowable form.

If the Examiner believes that there are any unresolved issues in any of the claims now pending in the application, the Examiner is urged to telephone Peter L. Michaelson, Esq. at (732) 542-7800 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Claim Amendments

Claims 1-3 and 5-10 are presently in the application.

Rejections under 35 U.S.C. § 103

Claims 1-10 stand rejected under 35 USC § 103(a) as being unpatentable over Berger in view of Ghosh and Babayan.

The Examiner contends the Berger discloses the use of palm oil in margarine products obtained by combining oils from each of the categories set forth in Table 1 and formulated into margarine according to the individual taste of the food product developer. The Examiner further contends that the instant claims differ from Berger in the recitation of the use of enzymatic interesterification. The Examiner further urges that Ghosh teaches that enzymatic interesterification of oils and interesterification palm stearin, specifically with oil is well known in the art. The conclusion is then reached that one skilled in the art would expect Berger would be able to treat palm oil products to enzymatic interesterification.

The Examiner further notes that Applicants' claims differ from Berger in the inclusion of medium chain triglycerides in the resultant product. The conclusion is then reached that it would have been obvious to one skilled in the art to formulate the Berger spread with the medium chain fats of Babayan to create a butter-like spread with the qualities of Babayan.

The rejection of the Examiner is traversed as follows:

The Examiner concedes that Berger differs from Applicants' invention in that enzymatically transesterified oil is not used by the patentee and the product contains medium chain triglycerides. The contention made by the

Examiner is that the enzymatically transesterified oil is disclosed by Ghosh and the medium chain triglyceride is disclosed by Babayan. However, a careful analysis of the references in issue reveals otherwise.

A review of Ghosh reveals that this reference discloses transesterification but it is a lipase-catalyzed transesterification for palm stearin with a high melting point. All the resulting transesterified oils shown in Table 8 of Ghosh have melting points higher than 37°C and are, in fact, different from the transesterified fat and oil of Applicants having an open tube melting point under increasing temperature of 20 to 32°C in accordance with the instant invention.

Applicants' invention employs a transesterified fat and oil having a low open-tube melting point under increasing temperature. Ghosh clearly does not disclose such a low melting transesterified fat and oil. Accordingly, the claimed invention is neither disclosed nor suggested by combining Berger and Ghosh, particularly in light of the fact that Ghosh fails to disclose or suggest the use of a transesterified fat and oil having a low open-tube melting point under increasing temperature, a critical feature of the instant invention.

Still further, the Ghosh reference neither discloses nor suggests the use of the resulting transesterified fat and oil as a fat and oil composition for spreads such as margarine.

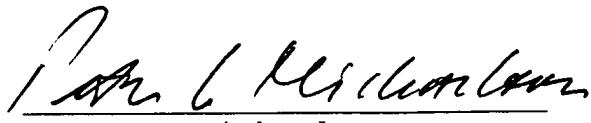
Accordingly, the combination of Berger and Ghosh clearly do not suggest or disclose Applicants' invention and it is urged that the rejection be withdrawn.

With regard to the Babayan disclosure, Applicants do not raise any arguments with regard to the fact that medium chain triglycerides are shown. However, the fact that Ghosh does not disclose or suggest a low melting transesterified fat and oil or the use of such composition for spreads precludes the combination with Babayan.

Conclusion

In light of the foregoing, it is urged that the rejection be withdrawn and the application passed to issue.

Respectfully submitted,

  
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I hereby certify that this correspondence is being deposited on **August 8, 2008** with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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